



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 13 1992

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Mr. David Forsby, Acting Director
Bureau of Mines
U.S. Department of the Interior
Office of the Secretary
Washington, D.C. 20240

Dear Mr. Forsby:

Thank you for your letter of September 23, 1992, in which you raised a number of questions concerning the Bevill exempt status of certain wastes generated at the North American Chemical Company, Searles Dry Lake Operations and at the Molycorp Mountain Pass Mine. As you are probably aware, the Environmental Protection Agency (EPA) receives many requests to interpret its regulations because of their complex nature. We also play a role in assisting the states in implementing their regulations that are based upon EPA regulations. Since the status of our involvement for these two facilities is at different stages, I will discuss them separately.

Molycorp

In March 1991, the California Department of Toxic Substances Control (DTSC) requested that EPA verify the state's interpretation on the regulatory status of several waste streams at Molycorp's Mountain Pass, California mine. The issue was whether they are exempt from the hazardous waste regulation under the "Bevill Amendment." Molycorp is a subsidiary of Unocal.

In May 1991, EPA's Office of Solid Waste, based on information provided by the state, responded to the DTSC by issuing an interpretive letter which supported the state's position that certain wastes are not included under the Bevill exemption from the hazardous waste provisions of RCRA. Subsequent to our letter, the state undertook an enforcement action against Molycorp. (The state has a separate enforcement action based upon groundwater contamination at the facility.)

In November 1991, Molycorp requested that EPA reconsider its interpretation and invited EPA to visit the site. Visits took place in February and April 1992, after which EPA issued a letter to Unocal which reaffirmed EPA's May 1991 letter.



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Since that letter was issued, I have personally met with Molycorp to discuss their operations. My Deputy, Bowdoin Train, has also had a number of discussions with Molycorp personnel.

The state of California is now authorized to implement the hazardous waste provisions of RCRA. While my staff has spent a great deal of time and effort in analyzing the technical operations at the Molycorp facility and their legal implications, the state has the lead in determining the Bevill exempt status of Molycorp's wastes. In fact, the state and Molycorp have recently entered a consent decree to address the state's concerns at Molycorp's mine.

Searles Lake

In July 1991, DTSC requested that EPA verify the regulatory status of several wastes streams at North American Chemical's Searles Lake facility. In question was the "Bevill" status of eight waste streams.

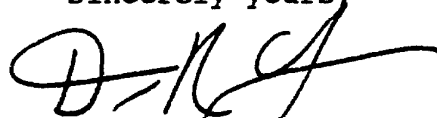
In February 1992, my office prepared a memo to EPA Region IX which in essence confirmed the majority of DTSC's interpretation. EPA Region IX has taken the lead in assisting DTSC, and my headquarters staff is assisting the Region and California with this matter.

DTSC reviewed our February 1992 memo and submitted a request to EPA in May 1992 to reconsider its earlier findings based on new data dealing with waste oils generated at Searles Lake. Based on this request, EPA felt that a visit to Searles Lake was warranted and it took place in June 1992. Since that time, North American Chemical has submitted additional technical information and has spoken with my staff and me. In July 1992, staff from EPA Region IX again met with representatives of BLM to discuss operations at Searles Lake. To date, EPA has not provided the state with our interpretation of the operations at Searles Lake. However, any interpretation that may ultimately be provided will come out of our Region IX office. In addition, as is the case with the Molycorp facility, the state ultimately has the lead in determining the Bevill status of wastes at Searles Lake.

Regardless of the state's continuing actions at both sites, we are happy to meet with Bureau of Land Management and Bureau of Mines to share the technical information that Molycorp, North American Chemical, and the state have provided to EPA. We would also anticipate a discussion at such a meeting on how operations at these facilities fit into the current set of EPA regulations dealing with the Bevill exclusion from RCRA. We would certainly welcome any ideas and information that you would wish to share with us regarding these discussions.

I have asked Jeffery Denit, Deputy Director of the Office of Solid Waste, to lead these discussions on behalf of EPA. Jeff is one of EPA's leading experts on Bevill and related mining issues. I request that your staff contact him at (202) 260-4627 to arrange a meeting.

Sincerely yours

A handwritten signature in black ink, appearing to read "D. R. Clay", written over the printed name.

Don R. Clay
Assistant Administrator